

ESTTA Tracking number: **ESTTA663270**Filing date: **03/26/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Cleansmart Cleaners, LLC		
Entity	Limited Liability Company	Citizenship	Texas
Address	2301 S. Lakeline Blvd., Suite 900 Cedar Park, TX 78613 UNITED STATES		

Attorney information	John M. Cone Hitchcock Evert LLP P.O. Box 131709 Dallas, TX 75313-1709 UNITED STATES jcone@hitchcockevert.com, docket@hitchcockevert.com, jrackley@hitchcockevert.com Phone:214-880-7002
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Registration Subject to Cancellation

Registration No	4040999	Registration date	10/18/2011
Registrant	Kleansmart Corporation Suite 410 Orlando, FL 32822 UNITED STATES		

Goods/Services Subject to Cancellation


Class 037. First Use: 2010/12/01 First Use In Commerce: 2010/12/01 All goods and services in the class are cancelled, namely: Carpet and rug cleaning; Carpet cleaning; Cleaning of clothing; Degreasing and cleaning services using solvent and vapor technology; Diaper cleaning; Drain cleaning services; Dry cleaning; Leather cleaning and repair; Rug cleaning; Textile-cleaning

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86314678	Application Date	06/19/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLEANSMART		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 2008/05/21 First Use In Commerce: 2008/05/21 laundry and dry cleaning services

Attachments	86314678#TMSN.png(bytes) 150326 Petition for Cancellation.pdf(9802 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ John M. Cone
Name	John M. Cone
Date	03/26/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 4,040,999 KLEANSMART and Design

CLEANSMART CLEANERS, LLC,	§	
Petitioner,	§	
v.	§	
	§	Cancellation No. _____
KLEANSMART CORPORATION,	§	
Registrant.	§	

TO THE HONORABLE TRADEMARK TRIAL AND APPEAL BOARD

PETITION FOR CANCELLATION

CLEANSMART CLEANERS, LLC (“CCL”), a Texas limited liability company, files this Petition for Cancellation of Trademark Registration No. 4,040,999 KLEANSMART and Design of KLEANSMART CORPORATION (“KC”) and would respectfully show the Board as follows:

1. CCL has filed trademark application No. 86/314,678 CLEANSMART. In an office action of September 27, 2014, the Trademark Examining Attorney has refused the application on the basis of Section 2(d), citing Registration No. 4,040,999.

2. CCL believes it is damaged by Registration No. 4,040,999 remaining on the register because it is preventing registration of CCL’s mark CLEANSMART.

3. Registration No. 4,040,999 was registered on October 18, 2011, so this Petition is timely under 15 U.S.C. § 1064.

4. To the best of Petitioner’s knowledge the name and address of the current owner of Registration No. 4,040,999 is Kleansmart Corporation, 7444 Narcoossee Road, Suite 410, Orlando, FL 32822.

5. CCL started to use the name and mark CLEANSMART long before January 12, 2011, the filing date of the application that resulted in Registration No. 4,040,999, and before the date of first use claimed in Registration No. 4,040,999 and had established trademark rights in the mark CLEANSMART long before either of these dates. CCL's rights in its trademark CLEANSMART have priority over KC's right in the mark of Registration No. 4,040,999.

6. The mark of Registration No. 4,040,999 so resembles CCL's mark CLEANSMART previously used by CCL and not abandoned, as to be likely, when used in connection with the services of Registration No. 4,040,999, to cause confusion, or to cause mistake, or to deceive.

WHEREFORE CCL prays that Registration No. 4,040,999 be cancelled and that it receive such other and further relief that the Board shall consider just.

Dated: March 26, 2015

Respectfully submitted,

/s/ John M. Cone

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ATTORNEY FOR PETITIONER
CLEANSMART CLEANERS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March 2015, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Registrant at:

Kleansmart Corporation
7444 Narcoossee Road
Suite 410
Orlando, FLORIDA 32822

/s/ John M. Cone